

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference YMH-0026-PCT	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/JP2004/009321	International filing date (day/month/year) 01.07.2004	Priority date (day/month/year) 29.08.2003
International Patent Classification (IPC) or national classification and IPC C12M1/00, C12M1/04, C12N1/00		
Applicant YAMAHA HATSUDOKI KABUSHIKI KAISHA		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																									
<p>4. This report contains indications relating to the following items:</p> <table><tr><td><input checked="" type="checkbox"/></td><td>Box No. I</td><td>Basis of the report</td></tr><tr><td><input type="checkbox"/></td><td>Box No. II</td><td>Priority</td></tr><tr><td><input type="checkbox"/></td><td>Box No. III</td><td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td></tr><tr><td><input type="checkbox"/></td><td>Box No. IV</td><td>Lack of unity of invention</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. V</td><td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VI</td><td>Certain documents cited</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VII</td><td>Certain defects in the international application</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VIII</td><td>Certain observations on the international application</td></tr></table>		<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report																								
Name and mailing address of the IPEA/JP	Authorized officer																								
Facsimile No.	Telephone No.																								

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International application No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):
- ☒ the international application as originally filed/furnished
- ☐ the description:
- pages _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☐ the drawings:
- sheets _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	2-16	YES
	Claims	1	NO
Inventive step (IS)	Claims	8-16	YES
	Claims	1-7	NO
Industrial applicability (IA)	Claims	1-16	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
Document 1: JP 02-012300 U (Daikin Industries, Ltd.), 25 January 1990			
Document 2: JP 03-031900 U (Shinji KASAHARA), 28 March 1991			
Document 3: JP 06-153902 A (Shibata Hario Garasu Kabushiki Kaisha), 03 June 1994			
Document 4: JP 011243293 A (Kabushiki Kaisha Kojoen), 17 May 1989			
<p>1. The invention set forth in claim 1 lacks novelty and does not involve an inventive step in the light of the inventions disclosed in documents 1 to 3 cited in the international search report.</p> <p>Documents 1 to 3 disclose culture devices that are equipped with microorganisms, a culture solution for culturing said microorganisms, a container (bag) for storing said culture solution and a support member for housing said container, wherein said container is supported by said support member in a manner such that said container is held in a prescribed shape.</p> <p>Consequently, the invention that is set forth in claim 1 of the present application is considered to be substantially the same as the inventions that are</p>			

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Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
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disclosed in documents 1 to 3.

2. The inventions set forth in claims 2 to 7 **do not involve an inventive step** in the light of the inventions disclosed in documents 1 to 3 cited in the international search report.

With regards to the abovementioned culture device, document 2 further discloses an item that can be considered to correspond to the bottom part that forms a bottom surface for holding said container in a prescribed shape, as well as items that can be considered to correspond to the side plates that form the side surfaces thereof.

In general, when culturing microorganisms or the like it is common practice to ascertain the state of the culture during the culture process, and it is considered to have been common practice to employ a transparent culture container for this purpose at the time when the present application was filed. In addition, when culturing microorganisms or the like over an extended period of time, at the time when the present application was filed it is also considered to have been common practice to provide a means for introducing a gas into the culture container in order to ensure the oxygen supply within said culture container.

Such being the case, it is considered to have been easy for a person skilled in the art to conceive of applying the abovementioned commonly used features in the culture device that is disclosed in document 2 by configuring so that the items that correspond to the culture container, the bottom part that holds said culture container and the side plates are transparent,

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and by providing a means for introducing a gas into the container so that it is possible to ascertain the state of the culture during the culture process and to ensure the oxygen supply within the culture container.

With regards to the support member for housing the flexible saccate container, at the time when the present application was filed it is considered to have been common practice to configure so that the bottom part and the side parts of said support members have tabular forms in order to effectively stabilize and house said flexible saccate container.

Consequently, it is considered to have been easy for a person skilled in the art to conceive of applying the abovementioned commonly used feature in the culture device that is disclosed in document 1 by providing tabular members to the bottom part and the side parts of said support member (i.e., one or more sets of surfaces that face one another) so that it is possible to effectively stabilize and house said container (bag) while it is being stored.

Furthermore, as is indicated above, it is also considered to have been easy for a person skilled in the art to conceive of applying the aforementioned commonly used features by configuring so that the culture container, the bottom part that holds said culture container and the side plates are transparent, and by providing a means for introducing a gas into the container in order to make it possible to ascertain the state of the culture during the culture process and to ensure the oxygen supply within the culture container.

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In addition, when providing tabular members to the bottom part and the side parts of said support member, at the time when the present application was filed it is considered to have been common practice to provide attachment parts to said support member, to detachably mount said tabular members to said support member and to interconnect said tabular members by means of said support member. As a result, it cannot be considered to be especially difficult to incorporate the features in question.